

Amendment No. 1 to SB0739

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 739

House Bill No. 73*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 3, is amended by adding the following as a new part:

49-3-501.

This part is known and may be cited as the "K-12 Mental Health Trust Fund Act."

49-3-502.

The K-12 mental health endowment fund is established to provide mental health supports to students in primary and secondary schools in this state. The fund must be administered and funded in accordance with the following terms and conditions:

(1) The fund is an irrevocable trust that the state treasurer shall administer. The trust consists of the K-12 mental health endowment account and the K-12 mental health special reserve account;

(2) The trustees of the trust are as follows:

- (A) The state treasurer, or the treasurer's designee;
- (B) The comptroller of the treasury, or the comptroller's designee;
- (C) The secretary of state, or the secretary's designee; and
- (D) The commissioner of finance and administration, or the commissioner's designee;

(3) The state treasurer, or the treasurer's designee, serves as chair of the trustees and shall preside over all meetings and proceedings of the trustees;

(4) If necessary or convenient to carry out the purposes and provisions of this part, the trustees are authorized to create a nonprofit corporation or incorporate the fund as a nonprofit corporation under the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-68, and after incorporation, to apply for tax exempt status under § 501(a) of the Internal Revenue Code (26 U.S.C. § 501(a)), by virtue of being an organization described in § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)). The corporation, if created, has all rights and powers of a nonprofit corporation under the Tennessee Nonprofit Corporation Act, and the powers necessary to carry out the intent of this section, including, but not limited to, the solicitation of contributions and disbursement of funds;

(5) The trust may invest funds in any security or investment permitted by applicable laws, rules, and regulations, and that is not otherwise prohibited by the Constitution of Tennessee, Article II, § 31; provided, that investments made by the trust must be governed by the investment policies and guidelines adopted by the trustees of the trust in accordance with this section. The state treasurer is responsible for the investment and reinvestment of trust funds in accordance with the policies and guidelines established by the trustees;

(6) Subject to appropriation, the trust must be funded in fiscal year 2021-2022 by an initial deposit. Ninety percent (90%) of the initial deposit constitutes the principal of the trust, which must be placed in the K-12 mental health endowment account. Ten percent (10%) of the initial deposit must be placed in the K-12 mental health special reserve account;

(7) Trust income does not increase, or constitute an addition to, the principal of the trust, but must be placed in the K-12 mental health special reserve account; provided, that trust income may be used to pay expenses incurred in administering and investing the trust assets. As used in this

subdivision (7), "trust income" means the income from the trust's investment of the funds in the K-12 mental health endowment account or K-12 mental health special reserve account from whatever source derived, including, but not limited to, interest, dividends, and realized capital gains or losses;

(8) Subsequent transfers of funds to the trust after the initial deposit in subdivision (6) shall not increase, or constitute an addition to, the principal of the trust, and must be placed in the K-12 mental health special reserve account of the trust. Such funds may include moneys appropriated by the general assembly, received from the United States or any agencies of the United States, or received from any other source, including contributions from public or private sources. The fund may request and receive gifts, contributions, bequests, donations, and grants from any legal and appropriate source, and any such funds received must be deposited into the K-12 mental health special reserve account; provided, that if any such items are not in the form of funds, then any income, rents, or proceeds generated from the items must be deposited into the K-12 mental health special reserve account;

(9) The principal of the trust in the K-12 mental health endowment account, as described in subdivision (6), shall not be expended for any purpose;

(10) The trustees shall annually determine the amount of funds in the K-12 mental health special reserve account that are available for appropriation and expenditure in accordance with this section, but shall not determine how the funds in the K-12 mental health special reserve account are expended;

(11) The funds in the K-12 mental health special reserve account, as determined by the trustees in accordance with subdivision (10), are available to the department of mental health and substance abuse services for allocation and distribution, in consultation with the department of education, but such funds must be expended only for mental or behavioral health services or treatment for

kindergarten through grade twelve (K-12) students or for an assessment to review current mental and behavioral health resources for K-12 students that are available in each county;

(12) Unexpended funds remaining in the trust in any fiscal year, including, but not limited to, the principal, initial deposits, transfers, and interest in the K-12 mental health endowment account and the K-12 mental health special reserve account, do not revert to the general fund, but must remain available for expenditure in accordance with this section;

(13) Subject to applicable laws and rules, the funds transferred to the trust, including funds in the K-12 mental health endowment account and the K-12 mental health special reserve account, may be commingled with, co-invested with, and invested or reinvested with other assets transferred to the trust and other funds that are not part of the trust, including, but not limited to the state pooled investment fund established pursuant to title 9, chapter 4, part 6. The state treasurer shall account for such trust funds in one (1) or more separate accounts in accordance with this section and other applicable law; and

(14) All funds placed in the K-12 mental health special reserve account are available for allocation and distribution as authorized in this section only to the extent that funds are available in the K-12 mental health special reserve account. The state is not liable for any amount in excess of such sum. All requests for withdrawals for payment that are presented to the state treasurer must be used only to fund mental or behavioral health services or treatment for K-12 students, or an assessment to review current mental and behavioral health resources for K-12 students that are available in each county. Requests for withdrawals must not be commingled with requests for withdrawals presented to the state treasurer for any other purpose, and the individual or entity requesting

the withdrawal of funds must attest to same upon presentation of the request for withdrawal to the state treasurer.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.